

REMARKS

Reconsideration of the pending application is respectfully requested on the basis of the following particulars.

1. In the specification

The specification is amended to indicate that the pending application claims the benefit of priority of U.S. provisional application no. 60/445,447. Entry of the amendment to the specification is respectfully requested in the next office communication.

2. In the claims

Claims 1-12 are canceled without prejudice or disclaimer since they have been withdrawn from examination on their merits due to the restriction requirement dated August 16, 2005.

Claim 13 is currently amended to recite that the flexible liner has a "non-porous" surface that is formed from a "continuously cured elastomer." Support for this amendment is found in paragraph [0033]. The last forming material is removed from claim 13 and is now presented as new claim 23 which depends from claim 13.

Claim 14 is amended to clarify that the non-porous surface of the liner is placed adjacent an internal surface of the sock structure when the sock structure and the liner form a unitary sock structure. Support for this amendment is found in paragraph [0033].

Claim 21 is canceled in view of the new claim 24 which recites certain features of claim 21.

New claim 22 is added and positively recites that the liner is moisture impervious, as discussed in paragraph [0033] of the specification.

New claim 24 is added and recites a kit having the sock structure formed of a woven material carrying an activatable hardenable compound. Also, the kit includes a

liner having an elasticized fabric with a coating of a continuously cured silicone elastomer. Support for the features of this claim is found in paragraphs [0033] – [0035].

New claim 25 depends from new claim 24 and defines the liner as a stocking. Support for the features of this claim is found in paragraph [0033].

Entry of the amendment to the claims is respectfully requested in the next Office communication.

3. Rejection of claims 13-20 under 35 U.S.C. § 102(b) as being anticipated by U.S. patent 5,228,164 (“Graf”)

This rejection is respectfully traversed in view of the amendment to claims 13-26 and the shortcomings of the Graf patent in teaching the features recited by the pending claims.

In observing amended claim 13, it is readily apparent that the Graf patent does not disclose or suggest a flexible liner having a “non-porous continuously cured silicone elastomer surface.” Instead, the Graf patent teaches, as pointed out in the Office action, the use of a knit stocking (col. 8, line 67 – col. 9, line 6. col. 12, lines 41-45).

According to the Graf patent, the stocking is preferably a polyester stockinette. Polyester stockings are widely understood as having a woven structure devoid of any non-porous coating. Alternatively, other materials may be used to protect the foot such as vaseline and cast cream. Nowhere, however, is there any mention of using a liner that has a non-porous surface formed from a continuously cured elastomer.

The teaching of the stocking of the Graf patent does not constitute a prior art teaching of the liner described in amended claim 13. A knit stocking of the type taught by the Graf patent is inherently porous due to its knitted structure. Moreover, a knit stocking does not include a surface that is formed from a continuously cured elastomer. Thus, there is simply no reference or hint to providing a liner in the Graf

patent that has the non-porous surface required by amended claim 13 of the pending application.

While the Graf patent teaches the use of lubricants (col. 9, lines 2-6), a lubricant is not the same as a "continuously cured elastomer" that is required by claim 13; a lubricant, such as a silicone lubricating compound, is neither "continuously cured" nor elastomeric. Moreover, there is no guarantee that it is non-porous. For a more detailed explanation of an example of a liner having a continuously cured elastomeric surface, reference should be made to U.S. patent 6,485,776 B2. One skilled in the art would readily distinguish a liner having a continuously cured elastomer surface from a lubricant, such as a silicone lubricant.

Claim 14 was not addressed in the Office action. The feature that a sock structure and a liner of amended claim 13 may be integrated with one another to form a unitary sock structure is clearly not taught by the Graf patent. Evidence of this fact is provided by the method described by the Graf patent wherein the first step includes placing a protecting stockinette on a patient's foot, and then activating the resin of the shell forming fabric used to form the last (col. 11, line 30 through col. 12, line 3).

Claims 14-20, 22 and 23 are patentable based on their dependency from claim 13, and their individually recited features.

In view of these observations, it is submitted that pending claims 13-20, 22 and 23 are not anticipated by the teachings of the Graf patent. According withdrawal of this rejection is respectfully requested.

4. Rejection of claim 21 under 35 U.S.C. § 103(a) as being unpatentable over U.S. patent 5,228,164 ("Graf")

This rejection is moot in view of the cancellation of claim 21. The notion of a silicone lubricant as being a "non-porous, continuously cured elastomer" is dispelled in the aforementioned section (3) of these remarks.

5. New claims

New claim 24 essentially recites the subject matter of original claim 21 in independent form and includes language in amended claim 13. This new claim identifies the flexible liner as including an elasticized fabric and a non-porous, moisture impervious continuously cured elastomeric layer that coats at least one surface of the fabric.

Claim 24 is patentable over the cited prior art references at least on the basis in connection to claim 13.

Claim 25 is patentable based on its dependency from claim 24 and its individually recited features.

6. Conclusion

As a result of the amendment to the claims, and further in view of the foregoing remarks, it is respectfully submitted that the application is in condition for allowance. Accordingly, it is respectfully requested that every pending claim in the present application be allowed and the application be passed to issue.

If any issues remain that may be resolved by a telephone or facsimile communication with the applicants' attorney, the examiner is invited to contact the undersigned at the numbers shown below.

BACON & THOMAS, PLLC
625 Slaters Lane, Fourth Floor
Alexandria, Virginia 22314-1176
Phone: (703) 683-0500
Facsimile: (703) 683-1080

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Respectfully submitted,



JUSTIN J. CASSELL
Attorney for Applicants
Registration No. 46,205